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Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM

70-101

No. ~~1050~~ 1503

BOYD L. O'DELL, *Petitioner,*

v.

GRACE E. GARRETT, individually and as Executrix of the Estate of JAMES M. McCALLISTER, Deceased, and VELMA BOMMELAERE, and CITIZENS STATE BANK OF SPRINGER, NEW MEXICO,

Respondents

ON PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

BRIEF FOR RESPONDENT IN OPPOSITION

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JURISDICTION

Respondent contends that the issues presented are not sufficient to invoke the jurisdiction of this Court under *28 U.S.C. § 1257(3).*

STATEMENT OF THE CASE

Respondent objects to the Petitioner's unsupported conclusion that the issue in this case is a "federal question" of such a nature as to give this Court jurisdiction.

ARGUMENT

The portion of *28 U.S.C. § 1257(3)* relied upon by Petitioner can only be that portion relating to the validity of a statute of the United States. Nowhere in the Courts below nor in the Petition for Writ of Certiorari filed in this Court has Petitioner, in any manner questioned the validity of *31 U.S.C. § 757c(2)*, being the statute authorizing the savings bonds, or the regulations adopted thereunder. The thrust of Petitioner's argument appears to be that there is a conflict of authority as to the applicability of the regulations in various types of actions involving the validity of attempted gifts of savings bonds.

This is not sufficient to invoke the jurisdiction of the Court. It is only when the power of the Congress to enact the statute is drawn in question that the validity of the statute is at issue. *Baltimore . . . R.R. v. Hopkins* 130 U.S. 210 32 L.Ed. 908, 9 S.Ct. 503 and *Miller v. Cornwall R.R.* 168 U.S. 131, 42 L.Ed. 409, 18 S.Ct. 34.

Furthermore, the request for interpretation by this Court does not even involve a statute, but rather regulations of the Treasury Department prescribing the form of contract which the Treasury Department will enter into with purchasers of its savings bonds. Even if it be conceded that certain regulations fall within the meaning of the word "statute" as used in 28 U.S.C. § 1257(3), this is not the type of regulation falling within the section.

CONCLUSION

For the foregoing reasons the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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